



Federal Communications Commission
Enforcement Bureau
Los Angeles Office
18000 Studebaker Road Suite 660
Los Angeles, CA 90703

CERTIFIED MAIL # 7001 2510 0001 5861 4290
RETURN RECEIPT REQUESTED

Love's Travel Stop #286
attn: Bert Van Dyke
P.O. Box 120.
Quartzsite, AZ 85346

File No.: EB-04-LA-007

Citation No. C20053290003

Citation

By the Enforcement Bureau, Los Angeles Office:

Released: January 12, 2005

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to Love's Travel Stop for violation of Section 302(b) of the Act,² and Section 2.803(a)(1) of the Commission's Rules.³

2. Investigation by the FCC's Los Angeles Office revealed that on January 5, 2005, Love's Travel Stop offered for sale at their retail store at Quartzsite, AZ, two models of non-certified Citizens Band transceivers, namely, Galaxy (model numbers DX33HML and DX99V). According to the Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States. Furthermore, these devices bore no FCC equipment authorization labeling that is required for Citizens Band transceivers marketed in the United States⁴.

3. Section 302(b) of the Act² provides "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Rules³ provides that "...no person shall sell or lease, or offer for sale or lease, (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled...." Love's Travel Stop offer for sale of these devices violates both sections.

4. Love's Travel Stop marketed these devices as amateur transceivers. The Commission has evaluated radio frequency devices similar to those listed in paragraph 2 and concluded that the devices at issue are not only amateur radios but can be easily altered for use as Citizens Band

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302(b)

³ 47 U.S.C. § 2.803(a)(1)

⁴ See 47 U.S.C. §§ 95.409(a) & 2.925(a)

devices as well. A CB transmitter is a transmitter that operates or is intended to operate at a station authorized for the CB service, and it must be certificated by the FCC prior to marketing or importation.⁵ The Commission has further concluded that these devices fall within the definition of a CB transmitter and therefore cannot legally be imported or marketed in the United States. *See Response from the Commission's General Counsel to the U.S Customs Service dated May 17, 1999, 14 FCC Rcd 7797 (1999).*

5. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the rules⁶ states: "...([CB] Transmitters with frequency capability for the Amateur Radio Services...will not be certificated.)" *See also* FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

6. Furthermore, the Commission has revised Section 2.1204(a)(5) of its rules⁷ to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export.
ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.

7. Subsequent violations of the Communications Act or of the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation,⁸ seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.⁹

8. Love's Travel Centers may request a personal interview at the closest FCC location to it's place of business,¹⁰ namely:

Federal Communications Commission

18000 Studebaker Road, Suite 660
Cerritos, CA 90703

which can be contacted by telephone at XXX XXX-XXXX. They must schedule this interview to take place within 14 days of the date of this citation. Love's Travel Stop may submit a written statement within 14 days of the date of this citation to the above address:

Any written statement should specify what actions have been taken to correct the violation outlined above. When corresponding with the Commission, reference the case number above.

9. Any statement or information provided may be used by the Commission to determine if further enforcement action is required¹¹. Any knowingly or willfully false statement made in reply to this notice is punishable by fine or imprisonment.¹²

⁵ *See* 47 U.S.C. §§ 95.603(c) & 2.803

⁶ 47 U.S.C. § 95.655(a)

⁷ 47 U.S.C. § 2.1204(a)(5) revised effective February 28, 2000

⁸ *See* 47 U.S.C. § 1.80(b)(3)

⁹ *See* 47 U.S.C. §§ 401, 501, 503, 510

¹⁰ *See* 47 U.S.C. § 503(b)(5)

¹¹ *See* Privacy Act of 1974, 5 U.S.C. § 552a(e)(3)

¹² *See* 18 U.S.C. § 1001

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton
District Director
Los Angeles Field Office
Western Region
Enforcement Bureau

SP:sp

cc: Sent by regular mail.